IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1809 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

==========

RAMNIKLAL PREMSHANKER BHATT - Appellant(s)
Versus
SANDHABHAI GANDUBHAI KOLI & 2 - Defendant(s)

==========

Appearance :
MR DM THAKKAR for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1 - 2.
MS AMEE YAJNIK for Defendant(s) : 3,

==========

CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 27/07/2006

ORAL JUDGMENT

1. By way of this appeal the appellant has challenged judgement and award dated 16.11.1987 passed by Motor Accident Claims Tribunal (Main) at Rajkot, in M.A.C. Case No. 541 of 1983 whereby Tribunal ordered the original applicant to recover a sum of Rs. 8,350/- at the rate of 9% per annum by way of compensation.

2. The short facts of the case are that on 09.11.1983 at about 1.40 p.m. appellant was going to his home for taking lunch. At that time a truck came from Jamnagar

side driven by respondent No. 1 and the applicant asked for side for going towards right after showing his hand. He was riding on a motorcycle bearing Registration No. GAI 362. The appellant took a turn and was proceeding ahead, which was a steep and at that time the truck driven by opponent No. 1 came on right side, knocked down the appellant. As a result of this accident appellant sustained bodily injuries and was removed to Civil Hospital, Rajkot, and as he is a railway employee, he was shifted to Railway Hospital, Rajkot. Therefore appellant claimed a sum of Rs. 1,00,000/- by way of compensation.

3. Learned advocate for the appellant has submitted that the Tribunal erred in awarding only Rs. 8,350/- as against the total claim of Rs. 1,00,000/- though Tribunal has categorically given a finding that accident has occurred due to rash and negligent driving, causing serious injuries to the appellant. He further submitted that Tribunal erred in not properly appreciating the evidence at Ex. 43 and Ex. 46, which has resulted into grave injustice to the appellant.

4. As a result of hearing and perusal of the record it is found that the Tribunal has observed that the original applicant had examined himself at Ex. 43. The panchnama

of the occurrence is at Ex. 46 and the complaint lodged by the original applicant is at Ex. 45. The photographs are also produced in this case at Ex. 51. The Tribunal observed there is no other evidence on record to show that the original applicant was rash and negligent in his act of driving the offending truck. Considering all these documents and circumstances I am of the opinion that the Tribunal has not committed any error in passing the award Learned Counsel for the appellant is not able to point out anything contrary to takes a different view of the matter. In view of the above finding I am of the view that the Tribunal has not committed any error in passing the impugned order. I am in complete agreement with the reasoning adopted and the findings arrived at by the Tribunal. No case is made out to cause interference. Hence the appeal is dismissed. No order as to costs.

(K.S.JHAVERI, J.)

Suresh*